

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Ortiz Analyst: Roger Lackey Bill Number: SB 887

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 05-06-99

Attorney: Patrick Kusiak Sponsor:

**SUBJECT:** FTB Provide Information To The Department Of Social Services Regarding Group Home Licensees

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended April 15, 1999.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 15, 1999, STILL APPLIES.

OTHER - See comments below.

### SUMMARY OF BILL

This bill would provide that upon request from the Director of Social Services, the Franchise Tax Board (FTB) would furnish specific individually-identifiable information regarding a group home licensee to assist the Department of Social Services (DSS) in the identification of fraud by a group home provider.

This analysis will not address the bill's other changes regarding group home providers, as they do not impact the FTB.

### SUMMARY OF AMENDMENT

The May 6, 1999, amendment made changes regarding the development of regulations for group home providers. These changes would not impact the department's programs and operations.

The policy concerns and the proposed amendment provided in the department's analysis of SB 887, as amended April 15, 1999, are included below.

The department's analysis of SB 887 as amended April 15, 1999, still applies.

### Policy Consideration

The Revenue and Taxation Code and federal law provide specific guidelines and rules for the use and disclosure of confidential tax information by the FTB. In general, disclosure is authorized in connection with tax matters. Unless specifically authorized by law, all other disclosure by the FTB is prohibited. In addition, disclosure of tax return information does not authorize the recipient to further disclose the tax return information.

### Board Position:

<u>    </u> S	<u>    </u> NA	<u>    </u> NP
<u>    </u> SA	<u>    </u> O	<u>    </u> NAR
<u>    </u> N	<u>    </u> OUA	<u>  X  </u> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas 5/25/1999

This bill would require disclosure based on a finding by the Director of DSS, based on reasonable suspicion, that a group home licensee has committed fraud. "Reasonable suspicion" is not defined. Many criminal investigations require a showing of "probable cause" that a crime has been committed. It is not clear how "reasonable suspicion" under the bill differs from "probable cause."

The bill is styled to compel disclosure, notwithstanding any other provision of law. California law regarding disclosure of tax information is styled to authorize the disclosure of information not specifically prohibited. Amendment 1 is provided to parallel the other disclosure provisions contained in the Revenue and Taxation Code.

The bill contemplates referral of allegations of fraud by group home providers to a unit within the Office of the Attorney General (AG) for further investigation and prosecution. The bill does not contemplate disclosure of tax return information to the AG in connection with referral and investigations of fraud, as contemplated by the bill. The disclosure of tax information from the Director of DSS to the Office of the AG would be a violation of the state's existing disclosure laws.

#### BOARD POSITION

Pending.

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO SB 887  
As Amended May 6, 1999

AMENDMENT 1

On page 8, strikeout lines 27 to 40 inclusive, on page 9, strikeout lines 1 to 3 inclusive, and insert:

19553.5 (a) Subject to the limitations of this section and federal law, the Franchise Tax Board may permit the Director of Social Services or deputy directors to inspect the income tax returns of a group home licensee who has been determined by the Director of the Department of Social Services, based on reasonable suspicion, to have committed fraud that can be validated by specific and identified tax information regarding the group home licensee. The Franchise Tax Board may provide the director or deputy directors an abstract of the income tax return requested, or supply information concerning any item of income contained in the return or disclosed by the report of any investigation of the income or return of a group home licensee suspected of fraud.

(b) The right of the director or deputy directors to inspect income tax returns or obtain other information as provided in this section shall be limited to the records that will assist the Department of Social Services in validating the suspected fraud by the group home licensee. The information obtained pursuant to this section shall be used or disclosed only for the purpose of enabling the Director of Social Services or his or her deputy directors to validate the suspected fraud by the group home licensee.

(c) The right to inspect or obtain information as provided by this section shall only be allowed by the Franchise Tax Board upon the receipt of written documentation from the Department of Social Services indicating the director has made a determination based upon reasonable suspicion that a group home licensee has committed fraud that may be validated by the requested information.